## REMARKS

Examiners Roberts and Krass are thanked for the courtesy of a personal interview with the below signed attorney and a representative of the client, Rebecca Aumann, on April 17, 2008. In addition to the information contained in the Examiner Interview Summary, the following is noted regarding the interview. No exhibit was shown nor was a demonstration conducted. Claims 100, 102, 116, 118 and 136 were specifically discussed during the interview. The following prior art was discussed: U.S. Patent No. 4,626,427 (Wienecke); U.S. Patent No. 5,149,521 (Hirose) and U.S. Patent No. 6,537,595 (Hyodo). Several possible amendments of claims 100 and 118 were presented. Two of the proposed possible amended claims 100 are the same as claims 137 and 138 in independent form. Claim 141 was also presented as a possible proposed amendment to claim 100. Claim 118 as amended above was presented. The general thrusts of the principle arguments presented are included in the remarks below. A copy of the court's decision in *In re Halleck*, 164 U.S.P.Q. 647 (C.C.P.A. 1970), was given to the Examiners. One other item that was discussed was the fact that the last Office Action was a final rejection, and that the proposed amendment of claim 100, since it included limitations from two separate dependent claims, would be considered to raise a new issue. Hence Applicants decided to file a Request for Continued Examination with the present amendment. While no conclusion was reached, the Examiners indicated that the forgoing amendments of claims 100 and 118 would likely overcome the rejections in the outstanding Office Action.

The amendment does not involve new matter. Claim 100 has been amended to include limitations from claims 102 and 116. Claim 118 has been amended to include limitations from claims 119, 125 and 136. New claims 137-140 are supported by paragraphs 43 and 82. New claims 141 and 142 are similar to claim 108 in independent form.

Claims 118 and 131-133 were rejected in the outstanding Office Action under 35 U.S.C. § 102(b) as anticipated by Wienecke. This rejection is respectfully traversed for at least two reasons. Claim 118 has been amended so that it is directed to pressed tablets comprising a sweetener; a flavor; and an effective amount of an antimicrobial agent wherein the antimicrobial agent comprises

cardamom oil and wherein the amount of cardamom oil is present from about 0.01% to about 3.0% by weight of the pressed tablet and wherein the pressed tablet is formulated to deliver at least 0.005% concentration of cardamom oil to the oral cavity when the pressed tablet is consumed, such as by sucking or chewing and dissolving in the mouth. Wienecke discloses using cardamom seeds in dragee pearls or chewing bonbons with a sweetener and flavor to make a composition that is used to treat bad breath resulting from consumption of onions, garlic, cigarettes and alcohol. There is no suggestion in Wienecke that cardamom oil can be used in a confectionary product as an antimicrobial agent, or that it can be used in a pressed tablet.

As argued in the previous amendment, the term "an effective amount" in the claim introduces a purpose limitation that has to be considered when comparing the claim to the prior art. Applicants adopt by incorporation the legal arguments in the amendment filed January 9, 2008. The outstanding Office Action recognizes that new uses for a known composition are patentable, but assert that only method claims are patentable under this rational. However, as shown in *In re Halleck*, both method claims and composition claims are patentable when the claim calls for an effective amount of the ingredient for a purpose which is not obvious for the ingredient in the composition. Claim 1 at issue in *In re Halleck* called for "An improved growth stimulating composition for animals which comprises an animal feed and an effective amount of a peristalsis-regulating substance contained therein for growth stimulation." The U.S Court of Customs and Patent Appeals overturned a rejection of this claim, as well as a method claim, because the claim was directed to the "an effective amount" of a compound in an animal feed for a specific purpose (stimulating growth) that was not known or obvious from the prior art. This same rational applies to claim 118. Claim118, even though it is a composition claim, calls for an effective amount of an antimicrobial agent that comprises cardamom oil. Since cardamom oil is not taught to have antimicrobial effect in Wienecke, claim 118 is not anticipated by Wienecke. Also, claim 118 now calls for a pressed tablet, which is not disclosed in Wienecke. Claim 118 is thus patentable over Wienecke. Claims 131-133 are dependent on claim 118, and are thus patentable over Wienecke for at least the same reasons.

Claims 100, 103-107, 111-115, 117-118, 120 and 129-135 were rejected in the outstanding Office Action under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,537,595 (Hyodo). This rejection is respectfully traversed. Claim 100 is directed to a chewing gum composition comprising: a gum base; a sweetener; a flavor; and an effective amount of an antimicrobial agent wherein the antimicrobial agent comprises cardamom oil and wherein the amount of cardamom oil is present from about 0.01% to about 1.0% by weight of the chewing gum composition and wherein the chewing gum composition is formulated to deliver at least 0.005% concentration of cardamom oil to the oral cavity when the product is chewed. As noted above, claim 118 also requires an effective amount of an antimicrobial agent wherein the antimicrobial agent comprises cardamom oil and wherein the amount of cardamom oil is present from about 0.01% to about 3.0% by weight of the pressed tablet and wherein the pressed tablet is formulated to deliver at least 0.005% concentration of cardamom oil to the oral cavity when the pressed tablet is consumed. Hyodo discloses a chewing gum composition that can be flavored with, among other flavors, cardamom oil. As with Wienecke, there is no suggestion in Hyodo to use cardamom oil as an antimicrobial agent in chewing gum or other confection. For the reasons explained above, Hyodo thus does not anticipate claim 100 or claim 118, and claims 103-107, 111-115, 117, 120, and 129-135 dependent thereon.

Claims 100, 103, 105, 111-115, 117-118, 120, 126, 128-129 and 131-135 were rejected in the outstanding Office Action under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,149,521 (Hirose). This rejection is respectfully traversed. Hirose discloses compositions for use in the oral cavity, including chewing gum. One of several flavoring agents suggested for inclusion is cardamom oil. However, as with Wienecke, there is no suggestion in Hirose to use cardamom oil as an antimicrobial agent in chewing gum or other confection. Furthermore, the only example of a product that uses cardamom oil is Example 3, which is for toothpaste, and it only uses 0.001% cardamom oil, which is one tenth of the lower limit specified in claim 100. For theses reasons, and the reasons explained above, Hirose thus does not anticipate claim 100 or claim 118, and claims 103, 105, 111-115, 117, 120, 126, 128-129 and 131-135 dependent thereon.

Claims 108-110 were rejected in the outstanding Office Action under 35 U.S.C. § 103(a) as unpatentable over Hyodo in view of U.S. Patent No. 4,828,845 (Zamudio-Tena). This rejection is respectfully traversed. Hyodo is discussed above. Zamudio-Tena discloses xylitol coated comestibles. There is no suggestion in Zamudio-Tena of using cardamom oil, or that cardamom oil can be used as an antimicrobial agent. Thus, even if Hyodo was combined with Zamudio-Tena, the resulting combination would not suggest a chewing gum composition comprising a gum base; a sweetener; a flavor; and an effective amount of an antimicrobial agent wherein the antimicrobial agent comprises cardamom oil, as called for by claim 100. Claims 108-110, dependent on claim 100, are thus patentable over Hyodo and Zamudio-Tena.

Claims 100, 104, 106, 111-115, 117-118 and 127 were rejected in the outstanding Office Action under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,030,605 (D'Ameila) in view of Wienecke. This rejection is respectfully traversed. Wienecke is discussed above. D'Ameila discloses breath freshening compositions, including chewing gum. However, there is no suggestion of using cardamom oil in D'Ameila. Thus even if D'Ameila was combined with Wienecke, the resulting combination would not suggest a chewing gum composition comprising a gum base; a sweetener; a flavor; and an effective amount of an antimicrobial agent wherein the antimicrobial agent comprises cardamom oil and wherein the amount of cardamom oil is present from about 0.01% to about 1.0% by weight of the chewing gum composition and wherein the chewing gum composition is formulated to deliver at least 0.005% concentration of cardamom oil to the oral cavity when the product is chewed, as called for by claim 100, or a pressed tablet comprising a sweetener; a flavor; and an effective amount of an antimicrobial agent wherein the antimicrobial agent comprises cardamom oil, and wherein the amount of cardamom oil is present from about 0.01% to about 3.0% by weight of the pressed tablet and wherein the pressed tablet is formulated to deliver at least 0.005% concentration of cardamom oil to the oral cavity when the pressed tablet is consumed, as called for by claim 118. Thus claims 100 and 118, and claims 104, 106, 111-115, 117 and 127 are patentable over D'Ameila and Wienecke.

Applicants have made a novel and non-obvious contribution to the art of chewing gum formulations and pressed tablets using cardamom oil as an

antibacterial agent. The claims at issue distinguish over the earlier cited references and are in condition for allowance. Accordingly, such allowance in now earnestly requested.

Respectfully submitted,

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